

#131 Req for
Refund
06-05-03

Attorney Docket No.: 989.1033

UNITED STATES PATENT AND TRADEMARK OFFICE

Re: Application of: Mikko HEINONEN, et al.
Serial No.: 09/889,438
Filed: July 12, 2001
For: METHOD FOR CHANGING LINEAR LOAD ON
A REEL-UP

REQUEST FOR REFUND

Via Facsimile (703) 308-5077
Commissioner for Patents
Washington, DC 20231-0001

April 2, 2003

Dear Sir:

Pursuant to 37 CFR §1.26, applicant respectfully requests a refund of fees charged to Deposit
Account No. 500518 in error. The facts are as follows.

1. On November 25, 2002, a request for recordation of an assignment was filed along with
the requisite fee of \$40.00, which was paid by check to the U.S. Patent and Trademark Office
("USPTO"). A copy of the cancelled check is enclosed herewith for your reference. \$ 150

CERTIFICATE OF FACSIMILE TRANSMISSION
I hereby certify that this Request for Refund is
being transmitted via facsimile to the United States Patent
and Trademark Office on the date shown below.

April 2, 2003
STEINBERG & RASKIN, P.C.

Garnette McPherson

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Adjustment date: 06/05/2003 EEKUBAY1
03/21/2003 SNAJARRO 00000002 500518 09889438
01 FC:1251 110.00 CR

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03/21/2003 SNAJARRO 00000003 500518
01 FC:1251 110.00 CR

Attorney Docket No.: 989.1033

2. Also on November 25, 2002, a Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 C.F.R. 1.137(a) was filed along with the requisite fee of \$110.00.

3. A Decision on Applicant's Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a) was issued by the USPTO on January 30, 2003, dismissing the petition without prejudice. A copy of the USPTO's Decision is enclosed herewith. This USPTO's response also stated that if a reconsideration of the dismissal is desired, the reconsideration request should be entitled "Renewed Petition Under 37 C.F.R. 1.181."

4. On March 12, 2003, Applicant's attorney submitted a "Renewed Petition Under 37 C.F.R. 1.181" as directed in the USPTO's Decision referenced above. A Petition Under 37 C.F.R. 1.181 is a petition to withdraw the holding of abandonment, *which does not require a fee.*

5. Due to a clerical mistake, Applicant's attorney resubmitted the assignment document, filed on November 25, 2002, with *the attachments* contained in the Renewed Petition Under 37 C.F.R. 1.181. Nevertheless, the copy of the assignment document submitted with the Renewed Petition Under 37 C.F.R. 1.181 was not for re-recording purposes and there were no instructions to do so.

6. On March 21, 2003, Deposit Account No. 500518 was charged \$40.00 for recordation of an assignment and \$110.00 for a one-month extension of time. A copy of the March 2003 Deposit Account Statement is enclosed herewith for your reference.

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7. However, the Renewed Petition Under 37 C.F.R. 1.181 did not require an extension of time. The USPTO's Decision to Applicant's Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a) contained a date of mailing of January 30, 2003. The Renewed Petition Under 37 C.F.R. 1.181 was filed on March 12, 2003, well before the response due date of March 30, 2003. Accordingly, no fee for an extension of time was due.

8. The assignment document was included as a mere attachment to the Renewed Petition Under 37 C.F.R. 1.181 and was not for re-recording purposes and thus, Deposit Account No. 500518 should not have been charged \$40.00 for re-recording of an assignment.

Accordingly, it is submitted that no fees were due for the Renewed Petition Under 37 C.F.R. 1.181 and that the fees charged to our deposit account are in error.

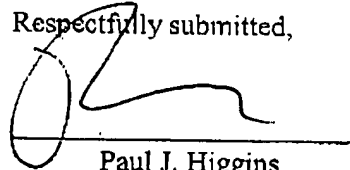
In this regard, it is respectfully requested that Deposit Account No. 500518 be credited the amount of \$150.00 for the fees charged in error.

Attorney Docket No.: 989.1033

This Request for Refund is being submitted within two (2) years of the date of the Deposit Account Statement and therefore a refund of the fees charged in error is appropriate.

Respectfully submitted,

By:



Paul J. Higgins
Reg. No. 44,152

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30 JAN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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me
3/30/03

In re Application of HEINONEN et al
U.S. Application No.: 09/889,438
Int. Application No.: PCT/FI00/00019
Int. Filing Date: 12 January 2000
Priority Date: 12 January 1999
Attorney Docket No.: 989.1033
For: METHOD FOR CHANGING LINEAR
LOAD ON A REEL-UP

RECEIVED

FEB 03 2003

DECISION

STEINBERG & RASKIN, P.C.

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a)", filed 02 December 2002, which is being treated as a petition under 37 CFR 1.181 to withdraw a holding of abandonment based on failure to receive an office action.

BACKGROUND

On 12 January 2000, applicant filed international application PCT/FI00/00019, which claimed priority of an earlier Finland application filed 12 January 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 20 July 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 14 July 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 12 July 2001.

On 12 July 2001, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 22 August 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

International application PCT/FI00/00019 became abandoned for failure to timely respond to the Notification of Missing Requirements.

On 02 December 2002, applicant filed the present petition along with an executed declaration.

Application No.: 09/889,438

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DISCUSSION

According to the Official Gazette at 1156 OG 53 and MPEP 711.03(c), a petition to withdraw a holding of abandonment based on failure to receive an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

With regard to item (1) above, applicant's representative has provided the required statement.

With regard to item (2) above, applicant's representative has not provided the required statement.


With regard to item (3) above, applicant's representative should supply a docket record which lists responses due to the USPTO on 22 October 2001 for all cases handled by the representative's firm, or if such a docket record is unavailable, for all cases handled by applicant's representative. This docket record must illustrate the absence of any listing of a response due to a Notification of Missing Requirements.

CONCLUSION

For the reasons above, the petition is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.


Bryan Tung
PCT Legal Examiner
PCT Legal Office

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Deposit Account Statement

Requested Statement Month: March 2003
Deposit Account Number: 500518
Name: STEINBERG & RASKIN P C
Attention: MARTIN G RASKIN
Address: 1140 AVE OF THE AMERICAS
City: NEW YORK
State: NY
Zip: 10036

DATE	SEQ	POSTING REF TXT	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
03/03	3	09953753		9204	-\$200.00	\$2,893.00
03/07	66	973470		8507	\$15.00	\$2,878.00
03/07	69	973474		8507	\$15.00	\$2,863.00
03/07	70	973479		8507	\$15.00	\$2,848.00
03/07	73	973482		8507	\$15.00	\$2,833.00
03/07	75	973484		8507	\$15.00	\$2,818.00
03/07	77	973486		8507	\$15.00	\$2,803.00
03/07	79	973489		8507	\$15.00	\$2,788.00
03/07	80	973491		8507	\$15.00	\$2,773.00
03/11	1	09937916	9926.1018	1201	\$168.00	\$2,605.00
03/21	2	09889438	989.1033	1251	\$110.00	\$2,495.00
03/21	3	09889438	989.1033	8021	\$40.00	\$2,455.00
03/24	17	2045208		9204	-\$200.00	\$2,655.00

START BALANCE	SUM OF CHARGES	SUM OF REPLENISH	END BALANCE
\$2,693.00	\$438.00	\$400.00	\$2,655.00

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FROM: Paul J. Higgins, Esq.

DATE: April 2, 2003

OUR REF.: 989.1033

N O. OF PAGES (including cover): 9

PLEASE DELIVER THE FOLLOWING TO:

<i>Recipient(s):</i>	<i>Firm(s):</i>	<i>Fax Number(s):</i>
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